

Amendment Under 37 C.F.R. § 1.111
U.S. Application No. 09/883,131

Attorney Docket No. Q71763

REMARKS

Claims 1 - 37, 40 - 41 and 54 - 55 are either herein cancelled or have been previously cancelled. Claims 59 and 60 are herein added. Accordingly, claims 38 - 39, 42 - 53 and 56 - 60 are presently pending in the application. The Examiner is thanked for noting the allowable subject matter of claims 37 - 39 and 47.

I. The Drawings

Turning now to the instant Office Action, the drawings stand objected to for allegedly not showing every feature of the claimed invention (specifically, an opposing pair of drive shoulders). In response, Applicant has amended the claims to overcome this objection, as shown in the attached Listing of Claims. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this objection.

II. Claim Rejection -- 35 U.S.C. § 112, Second Paragraph

Claim 44 is rejected for the lack of antecedent basis in the phrase "the angular disposition of the first cam portion[.]" In response, Applicant has amended the offending "the" to and "an" to overcome this rejection as shown in the attached Listing of Claims. Accordingly, the Examiner is respectfully requested to reconsider and withdraw this rejection.

III. Claim Rejection -- 35 U.S.C. § 102

The Examiner rejects claims 42 - 46, 49 - 51, 53 and 57 in view of U.S.P. No. 4,998,422 ("Borgmann") under 35 U.S.C. § 102. This rejection is respectfully traversed, as explained below.

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The above-noted rejected claims ultimately depend upon claim 42, thereby incorporating all of the features of claim 42. Claim 42 recites (in paraphrase) an interspaced coupler that inserts into holes in the cam for a Type 2 padlock (wherein the key is not removable), or, an interspaced coupler that does not insert into said holes for a Type 1 padlock (wherein the key is removable). In so many words, Borgmann is absolutely deficient as to these features.

M.P.E.P. § 2131 provides direction on this point, requiring that "the identical invention must be shown in as complete detail as is contained in the . . . claim" for a § 102 rejection to be proper. Because Borgmann fails to teach or suggest the above-noted features of independent claim 42, the § 102 rejection alleging anticipation cannot stand. The Examiner is therefore respectfully requested to reconsider and withdraw this rejection.

While the Examiner alleges that Borgmann's throw member 24 amounts to an interspaced coupler that inserts into holes within the cam (*see* the instant Office Action at the bottom of page 8), such a proposition is absolutely incorrect, as herein explained. Borgmann's throw member 24 drives the rotary bolt 58 by making contact between drive wall 156 (wherein drive wall 156 is located on throw member 24) and first face 82 of pie-shaped lug 66 (wherein pie-shaped lug 66 is an integral part of rotary bolt 58). (*See* Fig. 5; *see also* Col. 5, lines 9 - 39; and Col. 8, lines 12 - 55.)

Stated differently, *there fail to be any holes in the rotary bolt 58*. That is, Borgmann doesn't have any holes in the cam as is claimed by independent claim 42. Accordingly, Borgmann is absolutely deficient and the alleged anticipation rejection cannot stand. Claim 42 is

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therefore patentable and the Examiner is therefore respectfully requested to reconsider and withdraw this rejection.

Additionally, Borgmann fails to have a coupler that occupies two drive recesses in a Type 1 padlock. That is, in contrast to the independent claim 42, Borgmann's coupler displaces between drive recesses in a Type 1 padlock (*i.e.*, in front of element 82 and in front of element 84). However, if Borgmann were to occupy both spaces (one space in front of element 82 and another space in front of element 84), Borgmann's padlock would be a Type 2, not a Type 1.

Additionally, as to the dependent claims 43 - 46, 49 - 51, 53 and 57, these claims depend or ultimately depend upon claim 42 and are therefore patentable at least by virtue of their dependencies.

Moreover as to claim 44, this claim recites a stop member which is displaceable. In contrast, Borgmann's allegedly corresponding element no. 88 is not displaceable; instead it resides in a small, undercut recess (*see* Borgmann at Col. 4, lines 45 - 60).

IV. Claim Rejection — 35 U.S.C. § 103

Claims 40, 48, 52, 56 and 58 stand rejected under 35 U.S.C. § 103 as allegedly being obvious in view of Borgmann and U.S.P. No. 5,377,511 ("Meckbach"). This rejection is respectfully traversed as explained below.

As discussed previously in relation to the § 102 rejection, Borgmann is absolutely deficient. Meckbach fails to cure these deficiencies. Accordingly, claims 40, 48, 52, 56 and 58 are patentable.

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Additionally as to claims 57 and 58, these claims recite a channel with a radius that is substantially the same as the radii of the second ball. These features are alleged to be non-obvious because they result in a stronger shackle.

Moreover, M.P.E.P. § 2143 states that "[i]f an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious." Therefore, because claims 48, 52, 56 and 58 ultimately depend from claim 42, and further because claim 42 is not rejected under § 103, then claims 48, 52, 56 and 58 are non-obvious at least by virtue of being dependent upon a nonobvious claim.

V. Conclusion

As explained above, the instant invention includes structure and features that are absolutely absent in the prior art relied upon as the basis for rejection. Accordingly, it is respectfully requested that the Examiner reconsider and withdraw the current rejections. Additionally, it is posited that the remaining claims are patentable at least by virtue of their ultimate dependencies, and that new claims 59 - 60 are patentable at least for reasons similar to those reasons finding claim 42 patentable, as explained above.

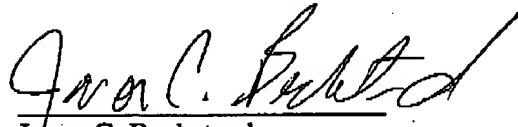
In view of the previous, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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Respectfully submitted,


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23373

CUSTOMER NUMBER

Date: January 28, 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT UNDER 37 C.F.R. § 1.111 is being facsimile transmitted to the U.S. Patent and Trademark Office this 28th day of January, 2004.


Thea K. Wagner